IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FRANCES E. BENTLEY,	§	
Plaintiff	§	
	§	No. 1:15-CV-00267-RC-KFG
v.	§	
	§	
CAROLYN W. COLVIN,	§	
COMMISSIONER OF THE SOCIAL	§	
SECURITY ADMINISTRATION,	§	
Defendant	§	

ORDER OVERRULING OBJECTIONS AND ADOPTING
REPORT AND RECOMMENDATION

The Plaintiff requests judicial review of a final decision of the Commissioner of Social Security Administration with respect to her application for disability-based benefits. This matter has been referred to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge submitted a report recommending that the decision of the Commissioner be affirmed. The court has considered the report and recommendation filed on September 13, 2016 (Doc. No. 14) and the Plaintiff's objections (Doc. No. 15). The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* Fed. R. Civ. P. 72(b). After careful consideration, the court concludes that the Plaintiff's objections are without merit.

Plaintiff objects to the magistrate judge's determination that the ALJ properly found that Bentley did not have a mental impairment which affected her ability to work and he properly did not include functional limitations from a mental impairment in the RFC. Plaintiff claims the hypothetical to the vocational expert was flawed as it did not include the mental impairments. Plaintiff objects that Bentley could not perform her past relevant work and alleges that the state agency medical consultants opined that she could not return to her past relevant work.

The magistrate judge correctly determined that the ALJ properly considered the four broad function areas set out in the disability regulations for evaluating mental disorders and in section 12.00C of the Listing of Impairments in 20 CFR, Part 404, Subpart P, Appendix 1. The magistrate judge found that the ALJ correctly addressed the four function areas and the ALJ demonstrated that Bentley's mental impairments caused "a slight abnormality having such minimal effect on the individual that it would not be expected to interfere with the individual's ability to work, irrespective of age, education, or work experience" in accordance with *Stone*. The magistrate judge correctly found that the ALJ's RFC assessment is consistent with the medical evidence contained in Dr. Loving's opinions. The magistrate judge correctly found that neither Dr. Turner nor Dr. Geary, the state agency medical consultants, made any finding or any determination about Bentley's ability to perform her past relevant work. The magistrate judge also correctly found that the hypothetical question posed to the vocational expert properly encompassed all of Bentley's limitations, as supported by the evidence of record. The magistrate judge correctly determined that there was no evidence from the state agency medical consultants to support Bentley's claim that she cannot perform her past relevant work identified by the vocational expert. The magistrate judge properly determined that ALJ Gutierrez's reliance upon the vocational expert's testimony was proper and his decision is supported by substantial evidence.

The court concludes that the magistrate judge correctly identified and discussed the point of error argued by plaintiff and analyzed the point correctly. The magistrate judge properly examined the entire record to determine that substantial evidence supports the administrative law judge's assessments and determinations and the Commissioner's denial of benefits.

Accordingly, all of the Plaintiffs objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

So **ORDERED** and **SIGNED** this **29** day of **September, 2016.**

_____
Ron Clark, United States District Judge